



## Guyana

### Country Reports on Human Rights Practices - [2003](#)

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The Co-operative Republic of Guyana has a multiparty political system based on proportional representation. Citizens elect an executive president and a 65-member unicameral parliament. The President appoints a prime minister and a cabinet. In March 2001, citizens voted in a generally free and fair national election to reelect the People's Progressive Party (PPP) and its Civic (C) partner. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. Social unrest and occasional violence marred the postelection period, with the main opposition party alleging that election procedures violated the Constitution. Despite some technical problems, international observers considered the elections free and fair. The judiciary, although constitutionally independent, was inefficient and often appeared subject to the influence of the executive branch.

The Guyana Defence Force (GDF) is a professional military responsible for national defense, internal security, and emergency response. The Guyana Police Force (GPF), which includes a Target Special Squad (TSS) that has some paramilitary training, has the authority to make arrests and is responsible for maintaining law and order throughout the country. The civilian authorities maintained effective control of the security forces. Some members of the security forces committed human rights abuses.

The economy was based on a mix of private and state enterprises. The country has a population of approximately 735,000. Rice, sugar, bauxite, gold, fish, and timber were the major exports. There were severe shortages of skilled labor, and the economy was constrained by an inadequate and poorly maintained infrastructure for transportation, power distribution, flood control, and communications. Government estimates placed real economic growth at 1.5 percent during the year, compared with 1.1 percent in 2002. The latest (1999) U.N. Development Program (UNDP) living conditions survey showed that 35 percent of the population lived in poverty; 21 percent were extremely poor.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. The police continued to commit unlawful killings, and police abuse of suspects continued to be a problem. The authorities took some steps to investigate abuses, but in general, the police continued to commit abuses with impunity. Prison conditions remained poor, and lengthy pretrial detention continued to be a problem. The inefficiency of the judicial system resulted in long delays in trials. Police infringed on citizens' privacy rights. The Government charged a television talk show host and a political activist with treason. Violence against women and children, societal discrimination against women and indigenous Amerindians, incidents of discrimination stemming from the racial tensions between Indo-Guyanese and Afro-Guyanese, child labor in the informal sector, and trafficking in persons were all problems.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings; however, police continued to commit unlawful killings. The Guyana Human Rights Association (GHRA), a nongovernmental organization (NGO), reported that the security forces killed 39 civilians during the year, compared with 28 in 2002. In most cases, the police shot the victims while attempting to arrest them or while a crime was being committed. Thirteen of the killings occurred during joint GPF/GDF operations to counter the rampant criminal activities of bandits centered in the village of Buxton. Public investigations rarely were conducted into such killings; in general, police abuses were committed with impunity. The Constitution broadly defines justifiable use of lethal force.

On January 18, police shot and killed Charles Hinckson and Marlon Wilson in a bathroom stall after they reportedly committed a robbery. The independent Stabroek News reported that the men received multiple gunshot wounds to the chest, face, and lower extremities, and that police recovered a cutlass and a .32 caliber gun.

On January 29, police shot and killed Errol Immanuel. According to Stabroek News, Immanuel, an itinerant vendor, was sitting with a friend around 8:00 p.m. when a police van stopped, and the policemen confronted him. According to eyewitnesses, Immanuel immediately raised his hands in the air, but one of the police officers fired two shots directly at him. The other man reportedly was arrested, tied to a fence, but subsequently released when reinforcements arrived. According to a GPF press release, Immanuel was killed in a confrontation with police after he allegedly attempted to rob someone at knife-point.

On March 1, a police patrol fired on a car carrying five teenagers, killing 18-year-old university student Yohance Douglas and injuring Ronson Grey and O'Neil King. Mass protests followed Douglas' killing, and the incident provoked allegations of racial profiling and indiscriminant use of force by the police. A preliminary inquiry was conducted before the Chief Magistrate, and the authorities charged two police officers with murder.

On June 4, a joint GPF/GDF force killed Romel Reman, Akeem Hack, Daniel James, Sean Norton, H. Glasgow, and three other men during an operation in Buxton. The police were looking for Reman and described Hack as the "mastermind" behind the Buxton-based crime wave. A GDF release stated that during the operation, bandits had opened fire on police while they were trying to escape from a building. Police found a large cache of arms and other items, including Bushnell night-vision binoculars. The GHRA questioned the credibility of the official reports, noting that all suspects died, with none injured, no surrenders, and no arrests.

On September 4, a policeman and a civilian accomplice beat to death Albert Hopkinson when he resisted arrest. Police detectives were immediately dispatched to the rural village where the incident took place, and the man's body was flown to Georgetown for an autopsy, which showed signs of strangulation and a fractured skull. The policeman and the civilian were taken into custody; a preliminary inquiry had not concluded at year's end.

The crime wave that began in 2002 continued into the year, and law enforcement officers continued to be targets of premeditated, ambush-style murders. In May, joint GPF/GDF cordon and search patrols were initiated in the village of Buxton, a well-known criminal safe-haven. On the basis of intelligence gathered in the course of these patrols, police killed several alleged bandits. Following the police action, killings of police ceased, and the violent crime rate declined for several months, before rising again toward year's end.

There were no new developments in most of the killings by police in previous years, including the police shootings of Wesley Hendricks, Tshaka Blair, Mark Crawford, Albetha Fufe, Kwame Pindleton, Leroy Lowe, Dexter Dubisette, and Shawn Welcome in 2002.

During the year, there were occasional reports of vigilante action taken against supposed criminals by unknown parties, who possibly included off-duty or former police officers. Several murders reportedly were attributed to this group, popularly referred to as the "Phantom Squad."

#### b. Disappearance

There were no reports of politically motivated disappearances.

During the first 4 months of the year, a trend towards increasing incidence of kidnappings for ransom continued. Most cases involved local businessmen, but some foreigners were also kidnapped for ransom. Following the joint GPF/GDF operations in Buxton and elsewhere, kidnappings declined by 80 percent.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture; however, police continued to abuse suspects. The GHRA continued to consider mistreatment of prisoners by prison officers a problem. Moreover, inmates, attorneys, and judicial authorities provided credible evidence that police and correctional officers frequently ignored the actions of other inmates who beat, robbed, or otherwise mistreated "problem" prisoners.

The Police Complaints Authority (PCA) received 161 complaints through September (compared with 98 for the same period in 2002); it completed investigations of 56 cases. Two cases were referred to the Criminal Investigation Authority for murder proceedings. The Office of Professional Responsibility (OPR) also investigated

complaints against police. The OPR did not release any information on how many cases it received during the year, how many it completed action on, or how many were awaiting decisions by the Department of Public Prosecutions (DPP) on whether to prosecute (see Section 1.d.).

Many legal authorities and human rights activists stated that due to rising crime and pressure from urban businesses, which were often the targets of criminals, the Government did not actively pursue investigations of alleged police abuses. Fear of reprisals also limited citizen reporting of police abuses.

Prison and jail conditions were poor, particularly in police holding cells. Georgetown's Camp Street Prison, the country's largest, was overcrowded. The Prison Authority reported that there were approximately 1,250 inmates in the 5 facilities in the system. Nearly half of these were estimated to be in the Camp Street Prison. According to prison officials, the facility was intended to hold 500 inmates; however, the GHRA stated that the Camp Street Prison initially was designed to hold 350 inmates. Conditions in the country's four smaller prisons generally were adequate. The GHRA continued to advocate improved health care in the prison system. In addition to overcrowding and a lack of medical personnel, poor staff morale was a serious problem. Prison staffers were poorly paid, and their salaries and benefits were insufficient to compensate for the on-the-job risks. The Guyana Prison Service reported that the department was implementing a 10-year (2001-11) strategic plan to modernize the prison system, with an emphasis on making prisons safer for inmates and officers, and implementing new rehabilitation programs.

Although the Government made efforts to address the recommendations made by a United Kingdom Prison Reform Team following the team's 18-month review of the Prison Service, progress was hampered by a lack of resources. The failure to appoint a Judicial Service Commission also impeded progress on reform implementation (see Section 1.e.).

The GHRA reported no deaths in prison during the year attributed to overcrowding. To reduce overcrowding, the GHRA called on the judiciary to consider alternative sentencing for minor offenses, rejuvenation of the Parole Board, and the release of ill prisoners who have completed almost all of their sentences. The GHRA did report that the reduction in the judicial backlog had resulted in reduced prison crowding (see Section 1.d.). The Parole Board continued to play a more active role, but was reluctant to release prisoners due to insufficient post-release resources, including a lack of staff to monitor parolees.

Although sanitary and medical conditions in police station temporary holding facilities varied, in almost all cases these conditions were worse than those in the prisons. Some such jails were bare, overcrowded, and damp. Few had beds, washbasins, furniture, or utensils. Meals were normally inadequate; friends and relatives routinely had to bring detainees food and water. Cells rarely had sanitary facilities, and staff members sometimes escorted inmates outside the cells to use holes in the floor for toilets. Inmates generally slept on a thin pallet on the concrete floor. The Brickdam lockup in Georgetown had poor sanitation and dangerous conditions. One cell without plumbing or other facilities typically held up to 30 detainees and often was the site of violence between inmates. Although precinct jails were intended to serve only as pretrial holding areas, some suspects were detained there as long as 2 years, waiting for the overburdened judicial system to act on their cases.

Conditions were generally adequate in the only women's prison, which is at New Amsterdam, in a facility that held men and women in separate dormitory-type buildings. There were a number of vocational and educational courses. The GHRA urged that female inmates' responsibility for children be recognized in terms of length of sentence and facilities for family contact.

Police continued to place juvenile offenders in a fairly adequate separate facility; however, female juvenile offenders were held with adult prisoners.

Pretrial detainees were held separately from convicted prisoners. Some special watch/high profile pretrial detainees were kept in security divisions also occupied by convicted prisoners.

Prison officials were receptive to local and international NGO requests to enter and inspect prison facilities.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution provides that no person may be deprived of personal liberty except as authorized by law and requires judicial determination of the legality of detention, a mandate that the authorities generally respected in practice.

The GPF is a centralized, military-style organization. There are seven regional districts, but all criminal investigations operate out of headquarters in Georgetown. The force includes specialized units, such as the Tactical Services Unit and the Quick Reaction Group, some of which had no clearly defined mandate. The Special Constabulary receives the same training as the regular police but focuses mainly on guard duty for Cabinet ministers and certain government facilities. During the year, the GHRA conducted general human rights training programs for the GPF and the Prison Service.

The PCA was composed of five members who investigated complaints against police officers. The law provides for the independence of the PCA; however, an appointment system drawing heavily from retired judges fostered a reluctance to take controversial or decisive action. A lack of adequate powers for independent investigation limited the effectiveness of the PCA. The OPR also investigated complaints against the police (see Section 1.c.).

Poor training, poor equipment, and poor leadership severely limited the effectiveness of the GPF. Public confidence and cooperation with the police was extremely low. The police appeared completely incapable of effectively addressing an unprecedented violent crime wave, which included multiple deliberate murders of police officers. In addition, there were reports of corruption in the police and a lack of police accountability. Even when police officers faced charges, most of the cases were heard by lower magistrate courts, where other specially trained police officers served as the prosecutors (see Section 1.e.). Human rights monitors questioned officers' commitment to prosecute their own colleagues.

In August, the National Assembly established a Disciplined Forces Commission to review the operations of the security services. The Commission gave priority to an investigation of the operations of the Police Force and submitted an interim report (covering the police) of its findings and recommendations to the Assembly in December. Commission hearings were held publicly, and a wide range of organizations and individuals came forward to testify.

Arrest does not require a warrant issued by a court official. Police may arrest without a warrant when an officer witnesses a crime or at the officer's discretion in instances where there is good cause to suspect that a crime or a breach of the peace has been or will be committed. The law requires that a person arrested and held for more than 24 hours be brought before a court to be charged, and this was generally observed in practice. Bail was generally available, except in capital offense cases. In narcotics cases, magistrates have limited discretion in granting bail before trial and are required to remand persons convicted of such crimes into custody, even if an appeal is pending.

Lengthy pretrial detention remained a problem. Since implementing initiatives contained in the Chancellor's Committee on Reform of the Criminal Justice System, however, the courts have reduced the backlog of cases, according to the GHRA. The GHRA estimated that prison figures have fallen approximately 30 percent with the main contributing factor being the reduced backlog of prisoners on remand.

The Government did not detain persons on political grounds, although supporters of Mark Benschop, a talk show host held on charges of treason, considered him to be a political detainee (see Section 2.a.).

The Constitution prohibits forced exile, and it was not used.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and for the most part this was the case. However, some law enforcement officials and prominent lawyers questioned that independence and accused the Government of occasional judicial intervention in civil cases involving judgments against the Government.

The court system is composed of a high court (the Supreme Court of Judicature), an appeals court, and a system of magistrate courts. Magistrates were members of the civil service and were trained lawyers. The magistrate courts deal with both criminal and civil matters, and specially trained police officers serve as prosecutors in lower magistrate courts. The Ministry of Legal Affairs, headed by the Attorney General, is the principal legal advisor to the State. The Director of Public Prosecution is statutorily independent and can file legal charges against offenders. The Constitution provides that anyone charged with a criminal offense has the right to a hearing by a court of law. This right generally was respected in practice.

Delays and inefficiency characterized the judicial process. Delays in judicial proceedings were caused by shortages of trained court personnel and magistrates, inadequate resources, postponements at the request of the defense or prosecution, occasional alleged acts of bribery, poor tracking of cases, and the slowness of police in

preparing cases for trial. There were reports that police who served as prosecutors in lower magistrate courts were reluctant to prosecute police accused of abuses (see Section 1.c.). The inefficiency of the judicial system undermined due process.

In 2001, the Constitution was amended to place the authority to appoint judges and determine tenure with the Judicial Service Commission (JSC). The JSC has the power to appoint the Director and Deputy Director of Public Prosecutions, the Registrar and Deputy Registrar of the High Court, and the Registrar and Deputy Registrar of Deeds. The amendments also allow the President, on the advice of the JSC, to make temporary appointments of judges to sit in magistrate courts and the High Court. At year's end, a new JSC had yet to be formed to replace the one whose term expired at the end of 2001.

Due to the continued absence of the Constitutional Service Commissions (Public Service Commission, the Police Service Commission, the Teaching Service Commission, and the Judicial Service Commission) there were no appointments or promotions to Public Service, the Police Force, the Teaching Service, or the judiciary and magistracy for over a year. Despite progress in the dialog between the governing PPP/C and opposition Peoples National Congress/Reform (PNC/R) parties, activation of the service commissions was held up by disagreement over their composition. On December 30, the Government formed the Public Service Commission, clearing the way for establishment of the Police Service Commission.

Defendants are granted public trials, and appeals may be made to higher courts. Defendants are presumed innocent until found guilty. Cases in magistrate's courts are tried without jury; more serious cases are tried by jury in the High Court. Appeals of some murder cases may go on for several years. Trial postponements were granted routinely to both the defense and the prosecution. Programs designed to improve legal structures, reform judicial procedures, upgrade technical capabilities, and improve efficiency of the courts had only a limited effect. Judicial staff still needed further training in all areas. Although the law recognizes the right to legal counsel, in practice, with the exception of cases involving capital crimes, it was limited to those who could afford to pay. There was no public defender system, but defendants in murder cases who needed a lawyer were assigned an attorney by the court.

The Georgetown Legal Aid Clinic, with public and private support, provided advice to persons who could not afford a lawyer, with a special interest in cases of violence against women and criminal cases related to civil cases (for example, assault as part of a divorce case). The Guyana Association of Women Lawyers provided free legal services for civil cases only.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for the right of privacy; however, the authorities often infringed on citizens' privacy. Law enforcement officials must obtain warrants before searching private homes or properties. Although the authorities generally respected these requirements, there were reports of police officers searching homes without warrants, particularly in neighborhoods where narcotics trafficking was a problem, and in connection with the Buxton-based crime wave.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were complaints of interference in the electronic media. Citizens openly criticized the Government and its policies.

The independent Stabroek News published daily, and a wide range of religious groups, political parties, and journalists published a variety of privately owned weekly newspapers. The Government's daily newspaper, the Guyana Chronicle, covered a broad spectrum of political and nongovernmental groups. Throughout the year, however, the Chronicle typically displayed a clear anti-opposition bias.

Talk show host Mark Benshop, arrested in 2002 on charges of treason for his role in the July 2002 storming of the Presidential Office Complex, remained in jail. The preliminary inquiry found that there was sufficient evidence for indictable charges to be brought, and the case awaited action in an upcoming High Court session. It was not clear

when the case may come up, as there was a long backlog of pending cases before the court. Political activist Phillip Bynoe, who was charged together with Bens Chop, remained at large.

In contrast to the Government's tolerance of the print media, a growing number of journalists charged the Government with failure to respect freedom of the electronic media. The Government owned and operated the country's sole radio station, which broadcast on three frequencies. There were no private radio stations, and private interests continued to criticize the Government for its failure to approve requests for radio frequency authorizations. The Government maintained that it was unable to grant frequencies to private stations because there was no legislation governing their allocation. However, despite a similar lack of legislation to govern television frequencies, there were 12 independent television stations in addition to the government station.

In late December 2002, on the recommendation of the Advisory Broadcasting Committee, the Government temporarily suspended the licenses of two television broadcasters, HBTB and CNS. In July, HBTB again had its license temporarily suspended. In each case the suspensions were in response to what was considered irresponsible broadcasting by the stations. The GHRA stated that although the recommendations to suspend were justified, it should have been done through judicial rather than executive action.

The legal and regulatory environment of the broadcast sector is weak and has been widely criticized for its inability to control frequently irresponsible independent television broadcasters. In August, a new draft broadcast law was introduced in the National Assembly, but it was returned to the inter-party committee for redrafting, which was not completed by year's end.

The Government did not restrict access to the Internet.

The Government did not restrict academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respected this right in practice.

The Public Order Act requires police permits for mass political meetings. The Police Commissioner has the authority to refuse permission for a public meeting if it is believed that the meeting may provoke a breach of the peace. In cases of refusal, applicants may appeal to the Minister of Home Affairs, whose decision on the matter is final. After obtaining authorization, which generally was granted, political parties and other groups held public meetings and rallies throughout the country without hindrance.

In March, large rallies and marches took place to protest the shooting of Yohance Douglas and Ronson Grey (see Section 1.a.). The demonstrations were peaceful and generally faced no interference.

The Constitution provides for freedom of association, and the Government generally respected this right in practice.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement within the country, and the Government generally respected this right in practice. Travel to Amerindian areas requires government permission, the result of a law dating from colonial times designed to protect indigenous people from exploitation. However, in practice most persons traveled throughout these areas without regard to the formality of a permit. Citizens were free to travel abroad, to emigrate, and to return.

The Government cooperated with the office of the U.N. High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government did not have a formal policy on refugees or asylum and did not enact model legislation prepared by the UNHCR. In practice, the Government provided protection against refoulement but did not routinely grant refugee status or asylum. Efforts by the Ministry of Home

Affairs and the Cuban Government to forcibly repatriate to Cuba a Cuban national married to a Guyanese citizen have for over a year been impeded by legal challenges brought by the Cuban.

### Section 3 Respect for Political Rights: The Right of Citizens to Change their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. There is a multiparty political system based on proportional representation. Voters elect 25 of the 65 deputies from regional constituencies; the remaining 40 seats are filled proportionally from national slates of nominees chosen by the parties from different sectors of society. Any citizen 18 years or older may register to vote. Citizens are free to join or support political parties of their choice. Since the party in power controls Parliament, the legislature typically provides only a limited check on the executive's power.

Voters indirectly elect the President to a 5-year term of office. A party's presidential candidate must be announced in advance of the election. The party that wins the most votes for Parliament wins the presidency. The President appoints a cabinet and a prime minister who, with the President, exercise executive power. A maximum of four ministers may be named who are not elected Members of Parliament.

In March 2001, citizens voted in a generally free and fair election to keep the PPP/C in office, defeating the PNC/R party. Incumbent Bharrat Jagdeo received his own mandate for a 5-year term as President. The opposition called for the courts to declare the election unconstitutional and illegal, which delayed Jagdeo's swearing in until later that month. An extensive audit of the 2001 election led by the Institute for Democracy and Electoral Assistance found that despite several procedural errors and system failures, there was no evidence of a conspiracy or corruption to manipulate election systems or the election results, as the opposition alleged.

Society is racially divided, and the political party structure reflected the polarization of the main ethnic groups. The two major parties (the PPP/C and the PNC/R) were formed largely by Indo-Guyanese and Afro-Guyanese, respectively.

There were no legal impediments to the participation of women or minorities in the political process. The Constitution requires that one-third of the parliamentary candidates be female. The 65-member Parliament included 20 women and 4 Amerindians, representing both major parties. The 20-person Cabinet included 4 women and 1 Amerindian, and the Chancellor of the Judiciary was a woman.

### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views. The GHRA was the most active local human rights group and issued periodic press releases and published an annual report on human rights. Trade unions, professional organizations, various ethnic groups, and churches participated in the GHRA. Members of the Government openly discussed human rights issues and made public statements in response to foreign and local human rights reports.

A Human Rights Commission (HRC), mandated by the Constitutional Reform Commission, is to be comprised of a Chairperson and the four chairpersons of the Women's, Children's, Indigenous, and Ethnic Relations commissions. At year's end, only the Ethnic Relations Commission had been activated, preventing establishment of the HRC. The GHRA complained about the lack of HRC members specifically charged with observing, protecting, and investigating fundamental human rights and freedoms, and the lack of authority given the commission.

### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

The Constitution provides fundamental rights for all persons regardless of race, sex, religion, or national origin; however, the Government did not always enforce these provisions effectively.

Fierce opposition from diverse religious groups prevented the passage of a constitutional amendment to prohibit discrimination on the basis of sexual orientation.

Persons living with HIV/AIDS encountered societal discrimination. They faced derogatory comments, the refusal of some mini-bus drivers to pick them up, and other types of stigma-related discrimination. There were anecdotal

reports of employers releasing HIV-positive employees but no evidence of official discrimination against persons with HIV/AIDS.

## Women

Violence against women, including domestic violence, was widespread, and NGOs reported that domestic violence crossed racial and socio-economic lines. Despite efforts by NGOs and the DPP to sensitize police officers to domestic violence, the police often were hesitant to interfere in cases of domestic disputes. Help and Shelter (H&S), the first local NGO dedicated to fighting domestic violence, handled 308 cases of abuse, including child, spousal, nonspousal, and other domestic abuse between January and September. Of these, 227 involved spousal abuse, 98 percent of which was directed against women.

The Domestic Violence Act defines domestic violence, establishes it as a crime, and gives women the right to seek prompt protection. Magistrates may issue interim protection orders when a victim of abuse, a police officer, or a social worker fills out an application for protection. A magistrate then evaluates the case and decides whether to replace interim orders with permanent orders. The act allows victims to seek protection, occupation, or tenancy orders. Protection orders prohibited abusers from being anywhere that the applicant lives, works, visits, or attends school. If protective orders were violated, the abuser could be fined up to \$54 (G\$10,000) and imprisoned for up to 12 months; however, this legislation frequently was not enforced. Occupation orders allowed the victim and any children to remain in a home previously shared with an abuser, while the abuser must leave. Similarly, tenancy orders required an abuser to leave a rented dwelling and to continue to pay some or all of the rent. The GHRA criticized the structure of the Domestic Violence Act, stating that the law could not be implemented until appointments had been made to the Women's Affairs Bureau.

Rape, particularly of girls and young women, was a serious problem but was infrequently reported or prosecuted. While more victims reported these crimes to the authorities than previously, there still was a social stigma applied to the victim for doing so.

Prostitution is illegal, but it did occur, and it received increased public attention due to the high incidence of HIV/AIDS among prostitutes.

There was no legal protection against sexual harassment in the workplace. The law prohibits dismissal on the grounds of pregnancy, and dismissal on such grounds did not occur in practice. The Women's Affairs Bureau of the Ministry of Labor monitored the legal rights of women, but its role was limited to employment-related services. The Women's Leadership Institute, a collaborative effort between the Government and the UNDP, sought through education and training to facilitate greater participation by women in government and the private sector.

On July 24, the National Assembly amended the Constitution to place emphasis on fundamental rights at that level. The amendment clearly spells out a range of criteria on the basis of which persons cannot be discriminated against, including gender.

The law protects women's property rights in common-law marriages and entitles a woman who separates or divorces to one-half the couple's property if she had been working and one-third of the property if she had been a housewife. Divorce by consent remained illegal. The courts may overturn a husband's will in the event that it does not provide for his wife, as long as she was dependent on him for financial support.

## Children

Children were affected more severely by the country's poverty than any other group. One-third of the population was under 18 years of age and, although the Government provided free education through secondary school (it is compulsory until age 14), the severe deterioration of the public education and health care systems limited children's future prospects. The public health system was inadequate, and private health care was unaffordable for many children. Children often did not attend school because their families needed them to contribute to the household by working or providing childcare for siblings or younger relatives (see Section 6.d.).

There was continued concern over the effects of domestic violence on children. It was unclear how many deaths from child abuse took place; law enforcement officials believed that the vast majority of criminal child abuse cases were unreported. Reports of physical and sexual abuse of children were common. There were no law enforcement investigative procedures in place to determine if abuse or parental incapacity were the true causes of death in some cases of the numerous children under the age of 5 who died each year; these deaths were usually attributed to malnutrition or disease.

Media reports of rape and incest further indicated that violence against children was a significant problem. The Domestic Violence Act allows police officers or social workers to file an application on behalf of an abused child, but there was a lack of social services or trained experts to assist children fleeing sexual, physical, or emotional abuse. Many children suffered from neglect or abandonment, much of which resulted from the annual emigration of 1 to 2 percent of the adult population, who often left children behind.

The Government has reiterated its position that corporal punishment is acceptable. The Government's report to the U.N. Committee on the Rights of the Child refers to "a parent's right to chastise." Anecdotal reports indicated that violence against children in public schools continued to occur, but Education Ministry data on the number of corporal punishment cases were unavailable. The Ministry of Education instituted a program intended to phase out corporal punishment in schools, but it had not been fully implemented by year's end.

There were reports of child prostitution (see Section 6.f.). UNICEF criticized the practice in which girls traded sexual favors for money, gifts, or help in employment or higher education, a practice sometimes condoned by their parents and obscured by cultural norms.

#### Persons with Disabilities

There was no law mandating provision of access for persons with disabilities, and the lack of appropriate infrastructure to provide access to both public and private facilities made it very difficult for persons with disabilities to be employed outside their homes. A council for persons with disabilities functioned throughout the year. There were several special schools and training centers for persons with disabilities, but the facilities lacked trained staff and were in disrepair.

#### Indigenous People

The Amerindian population, which consists of nine tribal groups, constituted an estimated 8 percent of the population. Most lived in reservations and villages in remote parts of the interior. Their standard of living was much lower than that of most citizens and their ability to participate in decisions affecting their lands, cultures, traditions, and the allocation of natural resources was limited. Access to education and health care in Amerindian communities was limited severely.

Amerindian life is regulated by the Amerindian Act, legislation dating from colonial times designed to protect indigenous people from exploitation. Under the act, the Government may determine who is an Amerindian and what constitutes an Amerindian community, appoint Amerindian leaders, and annul decisions made by Amerindian councils. It also prohibits the sale of alcohol to Amerindians and requires government permission before any Amerindian may accept formal employment, but these provisions were not enforced. Both Amerindian individuals and groups remained free to criticize the Government. In 2002 and during the year, the Government, in collaboration with Amerindian NGOs and community leaders, carried out a series of consultations with Amerindian communities to receive recommendations for a review of the Amerindian Act. This process had a substantive response from the communities, and the resulting reports were to be incorporated into formal recommendations to the Cabinet. At year's end, the process had not been completed, and no draft had been prepared for a new act.

The Government continued to maintain that it was committed to demarcating lands that traditionally have been the home of Amerindians, but the Government held title to almost all the country's land and was free to act as it wished without consultation. Under existing legislation, Amerindian rights to land are limited, and legal titles officially granted can be taken away in at least five ways. The demarcation process lacks transparency and has itself been a source of contention, with Amerindian communities claiming that their input has not been given appropriate consideration. For the Amerindian population, the land question constituted a major issue. Amerindians complained that the Government allocated land to other interests without proper consultations with the communities. Whether for concessions for environmentally damaging mining or logging interests or environmentally protected reserves, the Amerindian communities often viewed the allocations as illegitimate takings of "their" lands.

#### National/Racial/Ethnic Minorities

Longstanding ethnic tensions, primarily between citizens of African descent and those of South Asian origin, continued to influence society and political life. Racial grouping of social and political organizations polarized society along ethnic lines, and discrimination and exclusion continued to occur. Members of both the largely Indo-Guyanese PPP/C and the largely Afro-Guyanese PNC/R engaged in rhetorical and propaganda attacks that fueled racial tensions.

The civil service and security forces continued to be overwhelmingly staffed by Afro-Guyanese. Recruitment for the uniformed services operated on an open basis, with no preference or special effort to attract applicants from any particular group. There were generally few Indo-Guyanese applicants, since most qualified Indo-Guyanese candidates opted for a business or professional career over military, police, or public service.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution provides for the right of association and specifically enumerates workers' rights to form or belong to trade unions. However, the Constitution also specifically bars GPF members from unionizing or associating with any other established union.

The Trade Unions Recognition Law, which requires employers to recognize the union chosen by a majority of the workers, came into effect in 1999, but implementation has been slow. During the year, the Trade Unions Recognition Board, created by this law, issued 30 certifications and denied 4. The denied applications failed to meet the required threshold of 40 percent employee support. The Government promoted new union groupings as alternatives to established unions that it believed were dominated by the opposition. Nevertheless, all the new certifications were for existing unions representing previously uncertified enterprises.

Approximately 32 percent of the work force was unionized. Most union members worked in the public sector and in state-owned enterprises. There is no law prohibiting anti-union discrimination by employers. Although not always in harmony with specific unions, the country's socialist history continued to ensure that the Government maintained a generally pro-union stance.

Organized labor freely associated in the major national federation, the Guyana Trades Union Congress (GTUC), which was composed of 22 unions. There remained a tradition of close ties between the trade union movement and political parties. Historically, the two major political parties have wielded significant influence over the leadership of several unions, and trade union officials often served in dual roles as party officials. This arrangement occasionally led to overt politicization of labor issues.

Unions and their federations freely maintained relations with recognized international trade union and professional groups.

### b. The Right to Organize and Bargain Collectively

Public and private sector employees possessed and utilized the right to organize and to bargain collectively. The Ministry of Labor certified all collective bargaining agreements, and there have never been reports that it refused to do so. Individual unions directly negotiate collective bargaining status. Unions were dissatisfied with a provision that granted the Ministry of Finance veto power over wage contracts negotiated by other ministries. The Chief Labor Officer and the staff of the Ministry of Labor provide consultation, enforcement, and conciliation services.

The law provides workers with the right to strike. Strikes may be declared illegal if the union leadership did not approve them, or they did not meet the requirements specified in collective bargaining agreements. Public employees providing essential services may strike if they provide the proper notice to the Ministry of Labor and leave a skeleton staff in place, but they are required to engage in compulsory arbitration to bring an end to a strike. The International Labor Organization (ILO) urged the Government to amend this legislation to limit the use of compulsory arbitration to only those strikes in services where interruption would endanger life, personal safety, or health. There was no law prohibiting retaliation against strikers, but this principle was always included in the terms of resumption after a strike. The Trade Unions Recognition Law defines and places limits on the retaliatory actions employers may take against strikers. Arbitration rulings, when agreed to by the contending parties, were legally enforceable. Budgetary limitations have led the Government to resist recourse to arbitration in an ongoing wage dispute with the Guyana Public Service Union.

There are no export processing zones.

### c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor; however, there were reports that such practices occurred (see Section 6.f.). The Government prohibited forced or bonded labor by children and generally enforced this prohibition

effectively, with the exception of child prostitution.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Factories Act and the Employment of Young Persons and Children Act set out minimum age requirements for employment of children; however, child labor in the informal sector was a problem, and it was common to see very young children engaged in street trading in the capital. Legally, no person under age 14 may be employed in any industrial undertaking, and no person under age 16 may be employed at night, except under regulated circumstances. The law permits children under age 14 to be employed only in enterprises in which members of the same family were employed. According to UNICEF, 19 percent of children between the ages of 5 and 14 were considered to be involved in labor activities.

While the Ministry of Labor recognized that child labor existed in the informal sector, it did not employ sufficient inspectors to enforce existing laws effectively. The practice of teenage prostitution was a problem (see Section 6.f.).

#### e. Acceptable Conditions of Work

The Labor Act and the Wages Councils Act allow the Labor Minister to set minimum wages for various categories of private employers, but there was no legislated private sector minimum wage. As a result of a civil service arbitration ruling in 1999, the minimum public sector wage increased to \$98 (G\$19,000) per month. Although enforcement mechanisms existed, it was difficult to put them into practice, and unorganized workers, particularly women and children in the informal private sector, often were paid less than what was required legally. The legal minimum wage for the public sector was insufficient to provide a decent standard of living for a worker and family.

The Shops Act and the Factories Act set hours of employment, which vary by industry and sector. In general, work in excess of an 8-hour day or a 44-hour week required payment of an overtime rate, but if the initial contract stipulated a 48-hour workweek, then the overtime rate applied only for hours worked in excess of 48. The law does not require at least a 24-hour rest period each week.

The Factories Act also establishes workplace safety and health standards. The Ministry of Labor continued to conduct limited outreach to business in an effort to promote HIV/AIDS awareness and provide information on related health issues. The Occupational Health and Safety Division of the Ministry of Labor is charged with conducting factory inspections and investigating complaints of substandard workplace conditions. The ILO's Committee of Experts criticized the Occupational Health and Safety Act for failing to provide adequate protection for workers who use chemical substances proven to be carcinogenic. As with its other responsibilities, inadequate resources prevented the Ministry from effectively carrying out this function. Workers could not remove themselves from dangerous work situations without jeopardizing continued employment.

#### f. Trafficking in Persons

There were no laws that specifically prohibit trafficking in persons, and there were some reports of women being lured into prostitution through false promises of employment, as well as reports of child prostitution by teenagers in cities and in remote gold mining areas in Amerindian communities.

There were also occasional reports of smuggling of persons of Chinese and South Asian origin through Guyana for illegal immigration to the United States, although it is not known if the smuggling involved any force, fraud, or coercion. Persons caught providing fraudulent documents for the purpose of facilitating illegal immigration can be charged with obtaining money under false pretenses, which carries a small fine and a 6-month prison sentence.